

35323
DO

SERVICE DATE – LATE RELEASE NOVEMBER 19, 2004

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-43 (Sub-No. 173X)

ILLINOIS CENTRAL RAILROAD COMPANY–ABANDONMENT EXEMPTION–
IN FORREST COUNTY, MS

Decided: November 19, 2004

On March 28, 2003, a decision and notice of interim trail use or abandonment (NITU) was served authorizing a 180-day period for the Pearl & Leaf Rivers Rails-to-Trails Recreational District (District) to negotiate an interim trail use/rail banking agreement with the Illinois Central Railroad Company (IC) for approximately 2.4 miles of a line of railroad known as the Central District Trackage, extending from milepost MH 0.66 to milepost MH 3.06 in Forrest County, MS. At the request of the District, the negotiating period under the NITU was extended by decisions served on October 3, 2003, December 22, 2003, March 19, 2004, and October 5, 2004. The latest extension expired on November 17, 2004.

On November 17, 2004, the District requested an additional 60-day extension of the negotiating period. The District states that it needs the additional time to continue to finalize the trail use negotiations. Concurrently, IC responded that it is agreeable to the additional 60-day extension request.

Where, as here, the carrier has not consummated the abandonment at the end of the previously imposed negotiating period and is willing to continue trail use negotiations, the Board retains jurisdiction and the NITU negotiating period may be extended. Under the circumstances, an extension of the negotiating period is warranted. See Birt v. STB, 90 F.3d 580, 588-90 (D.C. Cir. 1996); Grantwood Village v. Missouri Pac. R.R. Co., 95 F.3d 654, 659 (8th Cir. 1996), cert. denied, 519 U.S. 1149 (1997). An extension of time will promote the establishment of trails and rail banking consistent with the National Trails System Act, 16 U.S.C. 1247(d). Accordingly, the negotiating period will be extended for an additional 60 days from November 17, 2004.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The request to extend the NITU negotiating period is granted.
2. The NITU negotiating period is extended until January 16, 2005.
3. This decision is effective on the date of service.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams
Secretary